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GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 108/Lab./AIL/T/2017,
Puducherry, dated 7th July 2017)

NOTIFICATION

Whereas, an Award in I.D (T) No. 08/2014, dated 4-5-2017 of the Labour Court, Puducherry in respect of the industrial dispute between the management of M/s. Pondicherry Co-operative Milk Producers' Union Ltd., Puducherry (Ponlait) and Ponlait Thozhilalar Sangam, Puducherry over revision of wages;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by the Secretary to Government (Labour), that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

E. VALLAVAN,
Commissioner of Labour-cum-
Additional Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT AT PUDUCHERRY**

Present : Thiru G. THANENDRAN, B.COM., M.L.,
Presiding Officer.

Thursday, the 4th day of May 2017

I.D. (T) No. 08/2014

Ponlait Thozhilalar Sangam
Rep. by its President,
Puducherry.

.. Petitioner

Versus

The Managing Director,
The Pondicherry Co-operative
Milk Producers' Union Limited,
Puducherry.

.. Respondent.

This industrial dispute coming on this day for hearing before me in the presence of Thiruvalargal M. Veerappan and S. Lenin Durai, Counsel for the petitioner, M/s. Law Solvers, Advocates for the respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this Court passed the following:

AWARD

1. This industrial dispute arises out of the reference made by the Government of Puducherry, vide G. O. Rt. No. 86/AIL/Lab./J/2014, dated 15-5-2014 of the Labour Department, Pondicherry to resolve the following dispute between the petitioner and the respondent, viz.,

(i) Whether the dispute arises by Ponlait Thozhilalar Sanagam, Puducherry against the management of M/s. The Pondicherry Co-operative Milk Producers' Union Ltd. (Ponlait), Puducherry over revision of wage i.e., Pay Band of ₹ 5,200-20,200 and Grade Pay of ₹ 1,800 to the categories of workers viz., 1. Dairy Helper, 2. Dairy Helper Grade-I, 3. Lab Helper, 4. A.I. Assistant and 5. Assistant Operator demanding to implement the Pay Scale with effect from 1-1-2006 instead of 1-7-2013 is justified? If justified, what relief they are entitled to?

(ii) To compute the relief if any, awarded in terms of money if, it can be so computed?

2. The averment of the claim statement filed by the petitioner are as follows :

(i) The petitioner Sangam is one of the major union in the respondent concern and had given representation to the respondent management regarding fixation of Pay Band of ₹ 5,200-20,200 + minimum Grade Pay of ₹ 1,800 to the following categories of workmen i.e., 1. Dairy Helper, 2. Dairy Helper Grade-I, 3. Lab. Helper, 4. A.I. Assistant and 5. Asst. Operator who had been working in the respondent concern for the past several years and their wages were not revised on par with other workers although other categories of workers and staff were drawing the wages and salaries as per the Pay Scale and Grade Pay of 6th Central Pay Commission with effect from 1-1-2006 and there are around 120 workers were affected due to the unjustified stand taken by the management when other categories of workers were given the said monetary benefit with effect from 1-1-2006 and there was no justification for respondent management to deny the same monetary benefit of wage revision to other set of employees working in the same respondent management.

(ii) The respondent management was not willing to settle and implement the demand raised by the petitioner sangam and hence, it approached the Labour Officer (Conciliation) through their petition, dated 23-4-2013 and at the proceeding of the Labour

Officer (Conciliation) the respondent agreed to implement the revised wages as demanded by the petitioner but, they agreed to implement the revised pay with effect from 1-7-2013 and adduced some reason for the same was due to financial problem it could not be implemented with effect from 1-1-2006 and along with the workers union demand in this regard made to the respondent management, the affected workers have also made representation individually and requested the respondent management to consider their cases sympathetically but, so for the respondent failed to respond positively.

(iii) The workers sangam made several representations to the respondent management and tried to settle the wage revision for the affected employees and discussed with the respondent management about the difficulties and economic conditions of the workers who had been under loss of legitimate wages refused by the respondent without any fair and proper reasons and the petitioner not accepted the stand of the respondent that implement the Pay Band with effect from 1-7-2013 on the basis of major section of workers were already drawing their revised wages with effect from 1-1-2006 and the categories pointed out in this petition alone denied the wage revision with effect from 1-1-2006 which amounted to discrimination among the equals and therefore, it is a violation of equality among equals as per constitutional rights protected as per Article 14 and 16 of the said Act and prays this Court to direct the respondent to implement the pay revision to the workers of the petitioner sangam as per revised Pay Band and Grade Pay with effect from 1-1-2006 as implemented to other workers and staffs working in the same respondent management and also other monetary benefits consistence with the implementation of the revised pay and allowances to the workers.

3. The averment of the counter filed by the respondent are as follows:-

(i) The respondent M/s. Pondicherry Co-operative Milk Producers' Union Ltd., for short PONLAIT has been formed and registered under the Pondicherry Co-operative Societies Act cannot by any stretch of interpretation, claim parity with the Department of Government and specific regulations exist for governing the service condition of the officers and staff of PONLAIT called a rules and regulations governing the service conditions of the employees of the respondent union Ltd., framed under Bye-law No. 20 and till the date on which the

5th Central Pay Commission Scales were made applicable to the employees of PONLAIT, the Scales of Pay given to those employees were not on any specific pattern and it was only after the 5th Central Pay Commission Scales were made applicable to the employees of Union Territory, the Pay Scales of the various categories of employees of PONLAIT were fixed on the pattern and structure of Central Pay Scales. Here again, the fitment of scales was left to the decision of the Board of Director/Administrator as there was no parity between the employees of PONLAIT and the Government servants and the duties and responsibilities and other service conditions were entirely different from each other.

(ii) The categories of employees covered under the industrial dispute namely, 1. Dairy Helper, 2. Dairy Helper Grade-I, 3. Lab. Helper, 4. A.I. Assistant and 5. Asst. Operator are as the Dairy Helper in the Pay Band of S.1. category ₹ 2,550-55-2,660-60-3,200 and the remaining four categories are classified under Pay Band of S3 category ₹ 2,650-65-3,300-70-4,000 and in the recommendations of the 6th Central Pay Commission all the above categories namely, S1 and S3 with the Pay Band of ₹ 4,440-7,440 with Grade Pay of ₹ 1,300 for Dairy Helper and ₹ 1,650 for remaining four categories and this has been granted by the decision of the Board of Directors/Administrator with effect from 1-6-2006 for regular employees of the respondent management. While restructuring the cadre in the Government Department, the 6th Central Pay Commission abolished the Group-D category and brought all in Group-C category in the Pay Band PB-1, (₹ 5,200-20,200) with Grade Pay of ₹ 1,800 and this classification recommended by the Central Pay Commission was not adopted by the PONLAIT for the reason that there was vast disparity in the nature of work, qualifications prescribed and the duties and responsibilities and it is now the demand of the petitioner that the 5 categories of the employees namely, 1. Dairy Helper, 2. Dairy Helper Grade-I, 3. Lab. Helper, 4. A.I. Assistant and 5. Asst. Operator should be given the pay band of PB-1 (₹ 5,200-20,200) with Grade Pay of ₹ 1,800 as per the Central Pay Commission pattern recommended, to the Government employees.

(iii) According to the recommendations of the 6th Central Pay Commission, while recommending grant of Grade Pay, the commission has taken into account number of variables including the

Government's capacity to pay and other service benefit real and unreal available to the Government employees and existence of multiplicity of other benefits, available to them. In so far as the employees of PONLAIT are concerned they are entitled for additional benefits like social security coverage under Employees State Insurance and Employees Provident Fund and other extramural and intramural benefits like bonus, medical allowance, free supply of one litre milk every day, superannuation scheme, earn leave benefits, encashment of death benefits all these fringe benefits are not available to the employees of the Government. The denial of the Pay and Grade Pay on par with Government employee therefore, cannot be disputed.

(iv) The petitioner sangam has sought for grant of revised benefit from 1-1-2006 which will land the management in insurmountable financial crisis involving 1.2 crore, while the respondent management is running on a loss of 26 crore. The Government of India abolished the Group-D category but, as far as PONLAIT is concerned, the employees are not categorized into groups as existing in Government Department. Besides the nature of work of PONLAIT *i.e.*, supply of milk to the public daily on two sessions warrants requirement of more number of labourers to undertake the above work and in the said dispute the petitioner sangam have been demanding for revision of Grade Pay in respect of five categories of employees on par with the Government servants (Multi-tasking Staff). In fact, all the five categories of employees belong to labour category and the qualification prescribed by the Government, to become MTS is not required by PONLAIT as they will be engaged in Labour oriented type of works daily to deal with the supply of essential commodity and therefore, the conversion of labourers particularly those five categories as MTS is not at all required by PONLAIT.

4. On the side of the petitioner, WW.1 was examined and Ex.W1 to Ex.W14 were marked. On the side of the respondent, no oral or documentary evidence has been adduced. Argument heard.

5. The point for determination is that whether the industrial dispute raised by the petitioner union against the respondent management over revision of wages is justified or not and if justified, for what relief, the workmen of the petitioner union are entitled to?

6. From the pleading of both the parties, it is clear that following facts are admitted by both the parties that the union has raised a dispute before the Conciliation Officer and the conciliation was failed and the Government has made a reference to this Court to decide the dispute raised by the petitioner union against the respondent management over the revision of wages of the members of the union on various categories with effect from 1-1-2006 instead of 1-7-2013 and the respondent establishment is a Co-operative Milk Producers' Union Ltd., registered under the Co-operative Societies Act and members of the petitioner union are working as workmen in the respondent establishment and these employees are covered under Employees State Insurance and Employees Provident Fund and that they are entitled for benefits like bonus, medical allowance, free supply of one litre milk every day and earn leave benefits and encashment of death benefits.

7. To prove the case, the petitioner has examined WW.1 and through him Ex.W1 to WW.14 were marked, Ex.W1 is the copy of the dispute notification issued by Labour Department, Puducherry, dated 15-5-2014, Ex.W2 is the copy of the failure report passed by the Labour Officer (Conciliation), Puducherry, dated 1-4-2014. Ex.W3 is the copy of the representation given to the respondent management by the petitioner, dated 5-9-2014. Ex.W4 is the copy of the counter statement filed by the respondent before the Labour Officer (Conciliation), Puducherry, dated 23-8-2013. Ex.W5 is the copy of the statement of existing Pay and also revised Pay with Pay Band and Grade Pay due for implementation relating to petitioner sangam workers. Ex.W6 is the copy of the individual representation of the workers of the petitioner sangam to the respondent. Ex.W7 is the copy of the list of promotion effected to the employees with effect from 1-2-2012, dated 1-2-2012. Ex.W8 is the copy of the revised Pay Scale structure applicable to employees of petitioner sangam. Ex.W9 is the copy of the list of employees in the respondent management as on the date, dated 1-9-2014. Ex.W10 is the copy of the Administrator proceedings held at Pondicherry Co-operative Milk Producers Union, dated 15-10-2008. Ex.W11 is the copy of the note sheet for framing of Draft Recruitment Rules for employees of Ponlait, dated 2-6-2016. Ex.W12 is the copy of list of employees regularized from 1-6-2014 to 31-5-2016. Ex.W13 is the copy of the list of employees taken for Consolidate Pay from 1-6-2014 to 31-5-2016. Ex.W14 is the copy of the list of employees taken as Casual Workers from 1-6-2014 to 31-5-2016. These documents would go to show that petitioner has made

representation before the respondent management and the petitioner union has raised a dispute before the Conciliation Officer for which the respondent management has filed a counter and on failure, the Government has referred this matter to this Tribunal and that the respondent establishment has 80 consolidated employees and 206 casual employees are working in the respondent management and from these documents, the petitioner has established that the petitioner union has made a representation for wage revision to the abovesaid five categories of workers before the respondent management and the respondent management has revised the salary of other categories of workers and staffs as per the Pay Scale and Grade Pay with effect from 1-1-2006 but, the wages of the said five categories of workers who are working for several years in the respondent establishment have not been revised on par with the other categories and they have been denied wage revision on par with the others.

8. In the course of argument, the joint compromise memo has been filed by the parties stating that on 21-4-2017 both the parties have mutually agreed and entered a Memorandum of Settlement under section 18(1) of Industrial Disputes Act, 1947. A copy of the said 18(1) settlement, dated 21-4-2017 is also filed along with the joint compromise memo which would reveal the fact that the management and the petitioner union has amicably entered into the settlement on 21-4-2017 in respect of 400 employees of the union and therefore, the matter has been settled between the parties by entering the settlement and hence, the compromise is to be recorded and Award is to be passed in terms of settlement and a copy of the settlement is to be attached as part and parcel of the Award.

9. In the result, the petition is partly allowed and the Award is passed directing the respondent to revise the wages of the said five categories of employees in terms of the settlement arrived at between the parties on 21-4-2017 under section 18(1) of Industrial Disputes Act and the same is recorded and the said settlement under section 18(1) of Industrial Disputes Act shall be attached as part and parcel of the Award. No cost.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 04th day of May, 2017.

G. THANENDRAN,
Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Puducherry.

List of witness examined for the petitioner:

WW1— 14-12-2015— Mahesh

List of exhibits marked for the petitioner:

Ex.W1— Copy of the dispute notification issued by Labour Department, Puducherry, dated 15-5-2014.

Ex.W2— Copy of the failure report passed by the Labour Officer (Conciliation), Puducherry, dated 1-4-2014.

Ex.W3— Copy of the representation given to the respondent management by the petitioner, dated 5-9-2014.

Ex.W4— Copy of the counter statement filed by the respondent before the Labour Officer (Conciliation), Puducherry, dated 23-8-2013.

Ex.W5— Copy of the statement of existing pay and also revised pay with Pay Band and Grade Pay due for implementation relating to petitioner sangam workers.

Ex.W6— Copy of the individual representation of the workers of the petitioner sangam to the respondent.

Ex.W7— Copy of the list of promotion effected to the employees with effect from 1-2-2012, dated 1-2-2012.

Ex.W8— Copy of the revised pay scale structure applicable to employees of petitioner sangam.

Ex.W9— Copy of the list of employees in respondent management as on the date, dated 1-9-2014.

Ex.W10— Copy of the Administrator proceedings held at Pondicherry. Co-operative Milk Producers' Union, dated 15-10-2008.

Ex.W11— Copy of the note sheet for framing of Draft Recruitment Rules for employees of Ponlait, dated 2-6-2016.

Ex.W12— Copy of the list of employees regularized from 1-6-2014 to 31-5-2016.

Ex.W13— Copy of the list of employees taken for Consolidate Pay from 1-6-2014 to 31-5-2016.

Ex.W14— Copy of the list of employees taken as Casual Workers from 1-6-2014 to 31-5-2016.

List of witnesses examined for the respondent: Nil

List of exhibits marked for the respondent: Nil

G. THANENDRAN,
Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Puducherry.

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 109/Lab./AIL/T/2017,
Puducherry, dated 7th July 2017)

NOTIFICATION

Whereas, an award in I.D (L) No. 21/2014, dated 30-5-2017 of the Labour Court, Puducherry in respect of the industrial dispute between the management of M/s. Sun Beam Generator Private Limited, Puducherry and its 5 employees viz., (1) K. Sivakumar, (2) S. Sivakumar, (3) P. Munisamy, (4) E. Jayachandran and (5) P. Gopalasamy represented by Sun Beam Generators Thozhilalar Sangam, Puducherry has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the Notification issued in Labour Department's G. O. Ms. No.20/91/Lab./L., dated 23-5-1991, it is hereby directed by the Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

E. VALLAVAN,
Commissioner of Labour-cum-
Additional Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL -CUM-
LABOUR COURT AT PUDUCHERRY**

Present :Thiru G. THANENDRAN, B.COM., M.L.,
Presiding Officer.

Tuesday, the 30th day of May 2017.

I.D. (L) No. 21/2014

Sun Beam Generators Thozhilalar
Sangam, Rep., by its Secretary
Mr. E. Jayachandran,
Puducherry.

.. Petitioner

Versus

The Managing Director,
M/s. Sun Beam Generator
Private Limited,
Puducherry.

.. Respondent

This industrial dispute coming up before me for final hearing on 2-5-2017 in the presence of Thiruvallargal R.T. Shankar, A. Ashok Kumar and P. Suresh, Counsel for the petitioner, and Thiru R. Ilancheliyan, Advocate for the respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this Court passed the following:

AWARD

1. This industrial dispute has been referred by the Government as per the G. O. Rt. No. 60/AIL/Lab./J/2014, dated 2-4-2014 for adjudicating the following:

(i) Whether the dispute raised by Sunbeam Generators Thozhilalar Sangam against the management of M/s. Sun Beam Generators Private Limited, Puducherry over non-employment of Thiruvallargal (1) K. Sivakumar, (2) S. Sivakumar, (3) P. Munisamy, (4) E. Jayachandran and are entitled to?

(ii) To compute the relief, if any awarded in terms of money, if it can be so computed?

2. The averments in the claim statement filed by the petitioner, in brief, are as follows:

(i) The petitioner union is a registered trade union under the Trade Unions Act *vide* Registration No. RTU/1701/2012 and their union workmen are working at respondent establishment for more than 6 years with full dedication and up to the satisfaction of management and performed all works assigned to them however, they getting very low salary, due to escalating the price of living cost/ living index, the financial position and buying capacity of the employees comes down, hence, the petitioner union was demanded wage increase/ revision from the respondent management but, they are not ready to increase the wages and therefore, they formed a trade union for collective bargaining, under such circumstances the respondent management has adopted unfair labour practice to deprive the workmen of their legitimate right created under the Labour Laws and in order to curtail the trade union activities the management has foisted false charges and suspended, transferred and terminated the office bearers and union members from the company.

(ii) It is further stated that the petitioner union already raised one dispute before the Labour Officer, conciliation, dated 9-3-2012 to protect their workmen against false charges, suspension and termination by the management and in response to the same, the respondent management appeared before the Labour Officer, conciliation authority and stated that they have to conduct domestic enquiry and require cooperation of the union members and as requested by the management, the Labour Officer, conciliation advised the union to cooperate for domestic enquiry and accordingly Thiruvallargal K. Sivakumar, S. Sivakumar, P. Munisamy, E. Jayachandran, P. Gopalasamy and other union members participated in the enquiry. The management conducted one domestic enquiry as against the principles of natural justice and even after elapse of 6 month of completion of domestic enquiry the management neither furnished the domestic enquiry report nor gave employment to the workers. The management without any concrete decision prolonging the issue with an intention to have revenge on the union members. Hence, the petitioner union requested the Labour Officer, conciliation to intervene in the matter and advise the management to reinstate the workers with backwages and other benefits.

(iii) It is further stated that the union members Thiruvallargal K. Sivakumar and S. Sivakumar were suspended from service on 25-2-2012 and 29-2-2012 respectively and the domestic enquiry was completed on 14-4-2012 and 11-6-2012 respectively. Similarly, Thiruvallargal P. Munisamy, E. Jayachandran and P. Gopalasamy were suspended from service on 5-3-2012, 21-3-2012 and 22-3-2012 respectively and domestic enquiry was completed on 30-5-2012, 8-11-2012 and 25-6-2012 respectively and in this connection conciliation meeting was held and during the conciliation proceedings the management again transferred, suspended the office bearers and members of the petitioner union because of their union activities and some of the members were suspended and the management paid only 75 % as subsistence allowance instead of 100%. While being so, the respondent management has sent termination notice to (1) S. Sivakumar, (2) K. Sivakumar, (3) Munisamy when conciliation was pending for which the conciliation authority advised the management that during pending conciliation the management should not issue termination notice and also advised to reinstate the workers who are suspended as well as transferred but, the same was not accepted by the management.

(iv) It is further stated that the respondent management neither furnished the domestic enquiry report nor gave employment to the Gopalasamy and Jayachandiran and has continuously refusing the employment to the said Gopalasamy and Jayachandiran and the Act of the respondent management by issuing the transfer order is comes under the unfair labour practice which is enumerated under the fifth schedule in item No. 7 of the Industrial Disputes Act, 1947 and as per the provisions under section 33 of Industrial Disputes Act during the pendency of the proceedings the respondent management has no right or whatsoever to change the service condition of the petitioner union employees but the respondent management has adamantly violated the same in transferring and dismissing the employees of petitioner union, which is already disputed one and therefore, prayed this Court to direct the respondent management to reinstate the employees of the petitioner union with full backwages, continuity of service and all other attendant benefits.

3. The brief averments of the reply statement filed by the respondent are as follows :

(i) The respondent denied all the averments made by the petitioner union in the claim statement and stated that employee K. Sivakumar was in the habit of indulging in various misconducts and was a habitual offender of the rules of law and indulged in an act of beating the Senior Officer and he has indulged in the act of gross negligence and due to his negligence the machine fell down and caused extensive damages and production loss and even after the warning given to him he has not corrected his mistake and continued his misbehavior and he was continuously speaking in cell phone in the work spot on 23-2-2012 and for which he was issued a show cause notice on the same day and he gave an evasive reply and has not rectified his indifferent behaviour and that therefore, the domestic enquiry was conducted and while the enquiry was in progress he came along with a group of mob entered into the respondent premises on 22-3-2012 and indulged in acts of threatening the Managing Director and assaulted the Executives and therefore the domestic enquiry was conducted against him after giving all opportunities and charges framed against him proved beyond reasonable doubts and he was terminated from service on 17-10-2013.

(ii) It is further stated that another employee S. Sivakumar also was in the habit of indulging in various misconducts by abusing and threatening the co-workers and for which he tendered his apology

through letter, dated 31-7-2009 and subsequently on 1-10-2009, he indulged in act of indiscipline with Senior Officers for which as a punishment he was transferred to another Department and on 24-2-2012 he was also misbehaved with the co-worker inside the factory during working hours and disciplinary proceedings was taken, against him on 29-2-2012 and he also has entered the factory along with the group of mob on 22-3-2012 and indulged in acts of threatening the Managing Director, assaulted the Executives and after conducting domestic enquiry and after giving due opportunities he was terminated from service on 17-10-2013 since the charges was proved.

(iii) It is further stated that the employees P. Munisamy, E. Jayachandiran and P. Gopalasamy were transferred to Salem, Bhubaneswar and Chennai respectively and all of them have not joined the duty and subsequently they did not attend the duty and disrupted their transfer places and refused to accepted the transfer order and that therefore they have voluntarily committed abatement of duty and the domestic enquiry was conducted against them and after completion of the domestic enquiry a report was submitted on 20-4-2013 and that therefore, all the employees have committed misconducts, the domestic enquiry was conducted properly against them and they were terminated from service and prayed for dismissal of claim petition.

4. In the course of enquiry PW.1 and PW.2 was examined and Ex.P1 to Ex.P30 were marked and on the side of the respondent RW.1 was examined and Ex.R1 to Ex.R57 were marked.

5. *The point for consideration is:*

Whether the petitioner union members are entitled for the order of reinstatement with back-wages, continuity of service and all other attendant benefits or not?

6. Both sides are heard. 'The submission of both the parties, the evidence let in by either sides and the exhibits marked on both sides are carefully considered. The learned counsel appearing for the petitioner argued that the petitioner employees have not been given full opportunity in the domestic enquiry and the domestic enquiry has not been conducted properly by following the principles of natural justice and in support of his contention the learned counsel has relied upon the Judgment reported in CDJ 2002 SC 195, Jaipur, Zila

Sahakari Bhoomi Vikas Bank Limited, Vs. Shri Ram Gopal Sharma and Others. On the other hand, the learned Counsel appearing for the respondent management has filed a written argument and he has also relied upon the following Judgments :

* Shri. M.K. Saini Vs. Indraprasatha Power Generation Co. Ltd. (IPGCL), (2015 LLR 616),

* National Hydro-Electric Power Corporation Ltd., Vs. Shri Bhagwan (2001 LLR 1222 SC),

* Management of RAS Theatre Vs. Presiding Officer, Labour Court, Salem, (2004 LLR 1130 Mad HC),

* Shri Sekhar Rudra Vs. The Union of India and Ors. (2016 LLR Pg.45),

* High Polymer Laboratories Vs. Jagdish Chand and Anr, (Punjab and Haryana HC 2007 LLR 166),

* Sh. Mohd.Azim Vs. Sarv UP Gramin Bank (2015 Delhi HC LLR 464),

* K. Rajakumaran Vs. The Managing Director (Madras HC 2012),

* Manilal Vs. Matchless Industries of India (2016 Delhi HC LLR 72),

* Ashok Kumar Sharma Vs. Oheroi Fligh Services (SC.LLR.2009pg.1281).

7. The petitioner union has raised this dispute over the non-employment in respect of the employees K. Sivakumar, S. Sivakumar, P. Munisamy, E. Jayachandran and P. Gopalasamy on the ground that the respondent management has conducted the domestic enquiry as against the principles of natural justice and in biased manner for fulfilling the formalities enumerated in the Labour laws and even after the completion of the domestic enquiry the management did not furnish the domestic enquiry report nor gave any employment to the workers and that the respondent management has sent the termination notice to the employees K. Sivakumar, S. Sivakumar, P. Munisamy when the conciliation was pending before the Conciliation Officer who advised the management that during the pendency of conciliation the management should not issue the termination notice and advised to reinstate the workers and that the respondent management has committed the unfair labour practice by issuing the transfer orders with *mala fide* and the termination of the employees while the industrial dispute is pending before the

Conciliation Officer is contravention of provisions S.33 of the Industrial Dispute Act and therefore it is the specific case of the petitioner that the respondent management has not conducted the domestic enquiry properly and while the industrial dispute is pending before the Conciliation Officer the termination order passed by the respondent, management is contravention of provision S.33(2)(B) of the Industrial Disputes Act.

8. From the pleadings of both the parties it is clear that the following facts are admitted by both the parties. The petitioner union members are the employees of the respondent establishment and they were working for more than 6 years and that they have formed a trade union and the union has raised the industrial dispute before the Conciliation Officer against the management and while the conciliation was pending the respondent management has conducted the domestic enquiry against the members of the trade union and the union members namely K. Sivakumar and S. Sivakumar were suspended in the month of February, 2012, P. Munisamy, E. Jayachandran and P. Gopalasamy were suspended from service and the domestic enquiry was completed and some of the employees were transferred while the conciliation was pending and they have been paid 75% of the subsistence allowance and while the conciliation was pending the management has issued the termination notice to the employees and all the said 5 employees were terminated from service and the conciliation was failed and this reference has made before this Court by the Government of Puducherry.

9. It is the contention of the petitioner that the respondent management has failed to increase the wages and that the employees were demanded for wage increase and wage revision but, the respondent management have not ready to increase the wages and hence the employees formed a trade union for collective bargaining and the respondent management has adopted unfair labour practice to deprive the workmen of their legitimate right created under the labour laws and in order to curtail the trade union activities the respondent management has foisted false charges and suspended, transferred and terminated the office bearers and union members and that therefore, they have raised the industrial dispute before the Conciliation Officer on 9-3-2012 and while the conciliation was pending before the conciliation officer, the respondent management has conducted the domestic enquiry against the principle of natural justice and the respondent management has not neither furnished the domestic enquiry report nor gave employment to the workers and while, the conciliation

was pending, the respondent management suspended the employees K. Sivakumar, S. Sivakumar, P. Munisamy, E. Jayachandiran and P. Gopalasamy on 25-2-2012, 29-2-2012, 5-3-2012, 21-3-2012 and 22-3-2012 respectively and during the conciliation proceedings the management wantonly again transferred, suspended the office bearers and the members of the petitioner union because of their union activities and suspended members were paid 75% of the subsistence allowance and the conciliation authority also advised the respondent management that during the pendency of the conciliation proceedings the management should not issue termination notice and also advised to reinstate the workers who are suspended as well as transferred and the respondent management has not accepted the same and even after the completion of the domestic enquiry the respondent management has not furnished the domestic enquiry report nor gave employment to the employees which is against the contravention of the provisions of section 33 of the Industrial Disputes Act.

10. In support of the case, the petitioner union has examined one Jayachandiran, General Secretary of the union as PW.1 and he has stated all the above facts in his evidence. Particularly, he has stated that during the pendency of the conciliation proceedings the management has issued a termination notice and even after the advice of the Conciliation Officer the respondent management has failed to reinstate the workers and while the conciliation is pending the respondent management transferred some of the employees which is unfair labour practice committed by the respondent management and which is against the law under the fifth schedule, in item No. 7 of Industrial Disputes Act and the termination and the transfer also has been committed by the respondent management in contravention of provisions of Sec.33 of Industrial Disputes Act in which during the pendency of the conciliation proceedings in respect of an Industrial Dispute any dismissal or transfer of any workmen concerned in such dispute, can only be done with the permission of the authority before which the industrial dispute is pending and in support of the case the petitioner union has also examined Ramachandiran, President of the Union as PW.2 and he has reiterated the evidence of PW.1 and in support of the oral evidence of PW.1 and PW.2 they have marked Ex.P1 to Ex.P30.

11. On the other hand, the respondent management has examined one Sakthi, Assistant Manager-HR of the respondent management as RW.1 and he has stated in his evidence that the employee K. Sivakumar was in the

habit of indulging in various misconducts and was a habitual offender of the rules of law and indulged in an act of beating the Senior Officer and he has indulged in the act of gross negligence and due to his negligence the machine fell down and caused extensive damages and production loss and even after the warning given to him he has not corrected his mistake and continued his misbehavior and he was continuously speaking in cell phone in the work spot on 23-2-2012 and for which he was issued a show cause notice on the same day and he gave an evasive reply and has not rectified his indifferent behaviour and that therefore, the domestic enquiry was conducted and after that he came along with a group of mob entered into the respondent premises on 22-3-2012 and indulged in acts of threatening the Managing Director and assaulted the Executives and therefore the domestic enquiry was conducted against him after giving all opportunities and charges framed against him proved beyond reasonable doubts and he was issued a second show cause notice on 8-8-2012 communicating the proposed punishment along with the enquiry report for which he gave his reply on 17-8-2012 and since his explanation was not accepted he was terminated from service on 17-10-2013 and another employee S. Sivakumar also was in the habit of indulging in various misconducts by abusing and threatening the co-workers and for which he tendered his apology through letter, dated 31-7-2009 and subsequently on 1-10-2009 he indulged in the act of indiscipline with the Senior Officers for which as a punishment he was transferred to another Department and on 24-2-2012 he was also misbehaved with the co-worker inside the factory during working hours and disciplinary proceedings was taken against him on 29-2-2012 and he also has entered the factory along with the group of mob on 22-3-2012 and indulged in acts of threatening the Managing Director, assaulted the Executives and after conducting domestic enquiry and after giving due opportunities he was terminated from service on 17-10-2013 since the charges was proved and the employees P. Munisamy, E. Jayachandiran and P. Gopalsamy were transferred to Salem, Bhubaneswar and Chennai respectively and all of them have not joined the duty and subsequently they did not attend the duty and disrupted their transfer places and refused, to accepted the transfer order and that therefore they have voluntarily committed abatement of duty and the domestic enquiry was conducted against them and after completion of the domestic enquiry a report was submitted on 20-4-2013 and that therefore, all the employees have committed misconducts and they have spoiled the industrial claimants and in support of the evidence, the respondent management has exhibited Ex.R1 to Ex.R57.

12. From the evidence and exhibits marked on the side of the respondent, it is clear that the contention of the respondent is that these employees have committed misconducts and misbehavior against the management and that they have initiated the disciplinary proceedings and conducted domestic enquiry properly after giving all opportunities to them in accordance with the natural justice and that therefore, they are not entitled for any reinstatement as claimed by the petitioner union.

13. On the other hand, it is contended by the petitioner that the domestic enquiry was not conducted in terms of the procedure and the fairness of the enquiry is challenged by the petitioner union stating that the enquiry is not in the procedure laid down under Labour laws and in violation of the Natural justice. On this aspect, records are perused. In all the enquiry reports, the Enquiry Officer has stated that they have been given sufficient opportunities to putforth their case and they have been permitted to cross examine the witnesses. Ex.R10- the Enquiry report of K. Sivakumar runs as follows :

“சம்பந்தப்பட்ட தொழிலாளி 16-3-2012 தேதியிட்ட கடிதம் ஒன்றினை சமர்ப்பித்தார். அந்த கடிதம் மூலமாக தனக்கு விசாரணையில் உதவியாளராக பங்கேற்க திரு. S. சிவக்குமார், தொழிற்சங்க கௌரவ தலைவரை அமர்த்தி கொள்ள கோரியிருந்தார். உள்-விசாரணையில் வெளி நபர்களை அனுமதிக்க இயலாது என்றும் அவருடன் பணிபுரியும் சக்தொழிலாளியை உதவியாளராக வைத்து கொள்ள அனுமதிக்கப்படும் என்றும் சம்பந்தப்பட்ட தொழிலாளியிடம் தெரிவிக்கப்பட்டது. சம்பந்தப்பட்ட தொழிலாளி விசாரணையில் வேறொரு சக்தொழிலாளியை உதவியாளராக வைத்து கொள்ள தனக்கு கால அவகாசம் தேவை என்று கேட்டுக்கொண்டார். எனவே கால அவகாசம் வழங்கப்பட்டு விசாரணையானது 21-3-2012 அன்று ஒத்தி வைக்கப்பட்டது.

21-3-2012 அன்று நடைபெற்ற விசாரணையில் சம்பந்தப்பட்ட தொழிலாளி தனக்கு உதவியாளராக K. தக்ஷணாமூர்த்தி, என்பவரை வைத்துக் கொள்ள வேண்டும் என்று கடிதம் மூலம் கோரியிருந்தார். அதற்கு நிர்வாகத்தரப்பு பிரதிநிதி K. தக்ஷணாமூர்த்தி என்கிற தொழிலாளி தற்சமயம் தங்கள் நிறுவனத்தில் பணிபுரியவில்லை என்று தெரிவித்தார். இதுபற்றி சம்பந்தப்பட்ட K. தக்ஷணாமூர்த்தி என்கின்ற நபர் கூறுகையில் தான் கடந்த 3-3-2012 முதல் நிறுவனத்திற்கு பணிக்கு செல்லவில்லை என்று தெரிவித்தார். எனவே சம்பந்தப்பட்ட தொழிலாளியிடம் வெளி நபர்களை விசாரணையில் அனுமதிக்க இயலாது என்று தெரிவிக்கப்பட்டது”.

Further Ex. R10- the enquiry report of P. Gopalasamy runs as follows:

“மேலும் சம்பந்தப்பட்ட தொழிலாளி தன்தரப்பு ஆவணங்களையோ அல்லது சாட்சிகளையோ தாக்கல் செய்ய முன்வரவில்லை”.

The above enquiry report of K. Sivakumar would reveal that the petitioner employee has been informed to assist by one co-worker and the petitioner employee asked the permission of the Enquiry Officer to allow S. Sivakumar, the Honorary President of the petitioner union to assist the petitioner in the enquiry but, he was not permitted to assist through the said S. Sivakumar by the Enquiry Officer and subsequently on 21-3-2012 the said petitioner K. Sivakumar has participated in the enquiry with the assistance of one K. Datchinamoorthy and asked permission of the Enquiry Officer to allow the said K. Datchinamoorthy to assist him but the respondent management has stated that the said K. Datchinamoorthy has not attended the duty from 3-3-2012 and therefore, he is not eligible to assist the said K. Sivakumar. Admittedly, the said K. Datchinamoorthy is the employee of the respondent management as attending the duty till 3-3-2012 but, the said K. Datchinamoorthy was also not permitted by the Enquiry Officer on the allegation of the respondent that he is not the employee of the respondent establishment to assist the one of the petitioner employee K. Sivakumar and thereafter the said K. Sivakumar has attended the enquiry without the assistance any other co-worker and the enquiry was also conducted outsource of the factory. The abovesaid facts would go to show that the petitioner has not been given ample opportunities to participate in the enquiry with the assistance of nobody else and even he has not cross examined the witnesses.

14. The point that has to be borne in mind in every case that whether the workmen was given a reasonable opportunity on presenting his case and whether the enquiry authority fairly, justly, reasonably and impartially does not so much to act judicially but it is to act fairly, the proceedings adopted must be just fair and reasonable in particular circumstances of the case and in other words the application of principles of natural justice that no men should be condemned and unheard intense to prevent the authority to act arbitrarily affecting the rights of the person concerned. In this case, one of the workmen though has requested the Enquiry Officer to permit his colleague the honorary union leader to defend his case which was refused by the Enquiry Officer and the request could have been acceded to rather than having been rejected to detriment the interest of the workmen and they have

a duty to proceed in a way which is free from even the appearance of the arbitrariness, unreasonableness or unfairness and they have to act in a manner which is patiently impartial and against the natural justice. The above all due opportunities should be given to the delinquents officially to cross examine the witnesses with the help of the assistance of somebody else but in this case the Enquiry Officer has not permitted the workmen to conduct the enquiry with the help of the Honorary President of the union and that therefore, the alleged enquiry have been conducted without following the principles of natural justice and even the enquiry does not hear the arguments of both sides and that therefore, the enquiry is not in accordance with the basic principles of natural justice *i.e.*, failure to give opportunities to the petitioner workmen to cross examined the vital witnesses in the domestic enquiry which would be fatal and the Enquiry Officer conducted and concluded the enquiry without cross examined the witnesses by the workmen and without giving opportunity to the employees to defend their case and hence, it is clear that the Enquiry Officer has not followed the principles of natural justice.

15. Further, it is learnt from enquiry proceedings- Ex.P8 that the employee K. Sivakumar has not cross examined the MW1-Pargunan who has alleged all the allegations against him. This fact alone would go to show that the Enquiry Officer has not given sufficient opportunities to the employee K. Sivakumar to cross examine the said MW1 with the assistance of any other co-worker. Furthermore, Ex.P10 to Ex.P12 reveals the fact that the respondent management has terminated the employees K. Sivakumar, S. Sivakumar and P. Munisamy. The termination order given by the respondent management under Ex.P10 to K. Sivakumar runs as follows:

“தங்களை பொறுத்தவரை தாங்கள் புரிந்த குற்றங்களை ஏற்று கொண்டு தாங்கள் தங்களுக்கு வழங்கப்பட வேண்டிய உத்தேச தண்டனையை குறைந்த பட்ச தண்டனையாக வழங்குமாறு கேட்டுக் கொண்டிருப்பின் நிர்வாகம் தங்களுக்கு தெரிவிக்கப்பட்ட உத்தேச தண்டனையை மறு பரிசீலனை செய்ய வாய்ப்பு உண்டு. மாறாக விசாரணை அதிகாரியையும், விசாரணை நடைமுறை குறிப்புகளையும் குறை கூறி தங்களது குற்றங்களை மறைத்து பல்வேறு காரணங்கள் கூறி தங்களுக்கு மீண்டும் வேலை வேண்டும் என்று கோருவது ஏற்று கொள்ள கூடியது இல்லை.

இத்தகைய சூழ்நிலையில் தாங்கள் அளித்த விளக்கம் போதுமானதாகவும், திருப்திகரமானதாகவும் இல்லை என்பதனாலும், தொழிற்சாலையின் ஸ்திர தன்மை மற்றும் அதில் பணிபுரியும் இதர தொழிலாளர்களின் நலன்

கருதியும் தங்களுக்கு நிரந்தர பணி நீக்கம் தண்டனையாக வழங்கப்படுகிறது. தாங்கள் 17-10-2013 முதல் நிரந்தர பணி நீக்கம் செய்யப்படுகிறீர்கள் என்பதை அறியவும் ”.

and the termination order given, by the respondent management under Ex.P11 to S. Sivakumar runs as follows :

“தங்களை பொறுத்தவரை தாங்கள் புரிந்த குற்றங்களை ஏற்று கொண்டு தாங்கள் தங்களுக்கு வழங்கப்பட வேண்டிய உத்தேச தண்டனையை குறைந்த பட்ச தண்டனையாக வழங்குமாறு கேட்டுக் கொண்டிருப்பின் நிர்வாகம் தங்களுக்கு தெரிவிக்கப்பட்ட உத்தேச தண்டனையை மறு பரிசீலனை செய்ய வாய்ப்பு உண்டு. மாறாக விசாரணை அதிகாரியையும், விசாரணை நடைமுறை குறிப்புகளையும் குறை கூறி தங்களது குற்றங்களை மறைத்து பல்வேறு காரணங்கள் கூறி தங்களுக்கு மீண்டும் வேலை வேண்டும் என்று கோருவது ஏற்று கொள்ள கூடியது இல்லை.

இத்தகைய சூழ்நிலையில் தாங்கள் அளித்த விளக்கம் போதுமானதாகவும், திருப்திகரமானதாகவும் இல்லை என்பதனாலும், தொழிற்சாலையின் ஸ்திர தன்மை மற்றும் அதில் பணிபுரியும் இதர தொழிலாளர்களின் நலன் கருதியும் தங்களுக்கு நிரந்தர பணி நீக்கம் தண்டனையாக வழங்கப்படுகிறது. தாங்கள் 17-10-2013 முதல் நிரந்தர பணி நீக்கம் செய்யப்படுகிறீர்கள் என்பதை அறியவும் ”.

and the termination order given by the respondent management under Ex.P12 to P. Munisamy runs as follows :

“தங்களை பொறுத்தவரை தாங்கள் புரிந்த குற்றங்களை ஏற்று கொண்டு தாங்கள் தங்களுக்கு வழங்கப்பட வேண்டிய உத்தேச தண்டனையை குறைந்த பட்ச தண்டனையாக வழங்குமாறு கேட்டுக் கொண்டிருப்பின் நிர்வாகம் தங்களுக்கு தெரிவிக்கப்பட்ட உத்தேச தண்டனையை மறு பரிசீலனை செய்ய வாய்ப்பு உண்டு. மாறாக விசாரணை அதிகாரியையும், விசாரணை நடைமுறை குறிப்புகளையும் குறை கூறி தங்களது குற்றங்களை மறைத்து பல்வேறு காரணங்கள் கூறி தங்களுக்கு மீண்டும் வேலை வேண்டும் என்று கோருவது ஏற்று கொள்ள கூடியது இல்லை.

இத்தகைய சூழ்நிலையில் தாங்கள் அளித்த விளக்கம் போதுமானதாகவும், திருப்திகரமானதாகவும் இல்லை என்பதனாலும், தொழிற்சாலையின் ஸ்திர தன்மை மற்றும் அதில் பணிபுரியும் இதர தொழிலாளர்களின் நலன் கருதியும் தங்களுக்கு நிரந்தர பணி நீக்கம் தண்டனையாக வழங்கப்படுகிறது. தாங்கள் 28-3-2014 முதல் நிரந்தர பணி நீக்கம் செய்யப்படுகிறீர்கள் என்பதை அறியவும் ”.

The above recital of the termination letters - Ex.P10 to Ex.P12 would go to show that the respondent management has stated that if the delinquent is admitting the charges and asking for any apology they can able to consider to give employment and they have been terminated only for the reason that the petitioner employees have made accusation against the domestic enquiry and its proceedings and from the above fact, it is clear that the petitioner employees have not been terminated by the respondent management for the charges committed by them, only for the reason that the petitioner employees have alleged some allegations against the domestic enquiry they were terminated from service and that therefore the reasons stated by the respondent for the termination of the employees K. Sivakumar, S. Sivakumar and P. Munisamy is not at all reasonable one.

16. Furthermore the employees P. Munisamy, E. Jayachandran and P. Goplasamy have been terminated for the reason that they have not joined the duty as per the transfer order and the domestic enquiry was conducted and they have been terminated from service. The contention of the said employees are that the respondent management wantonly transferred these employees with malafide intention without mentioning address in the transfer order to where they have to join. The transfer order of the employee P. Munisamy Ex.R24 runs as follows :

“It is hereby informed that you are transferring from CBG to Marketing office at Salem with effect from 15-2-2012”.

The transfer order of the employee E. Jayachandran Ex.R38 runs as follows:

You are hereby transferred from fabrication Department, Puducherry to Service Department, Bhubaneshwar branch with immediate effect. You are advised to report to Mr. Manoj Kumar Muduli, Senior Manager Marketing.

The transfer order of the employee P. Goplasamy-Ex.R44 runs as follows :

You are hereby transferred from loading Department, Pondicherry to Service Department, Chennai with immediate effect. You are advised to report to Mr. S. Rengarajan, General Manager.

From the above transfer orders, It is clear that the content of the transfer order does not contains the address where they have to join and even the respondent has failed to mention the office address or

the factory address where they have been transferred and except the name of the town they did not mention the address and that therefore no one can join anywhere else without mentioning the name of the factory or address and mere mentioning the name of the city as Salem, Chennai and Bhubaneshwar is not sufficient to asking the workmen to join any factory or any establishment without any address and in the domestic enquiry also on behalf of the respondent management the transfer order has been exhibited as a vital document. The Enquiry Officer does not find anywhere else that it contains any office address or branch address where the transferred employees have to join and that therefore, these facts itself would go to show that the Enquiry Officer before coming into the conclusion that the charges were proved has not considered the transfer orders are not containing the address where the employees have to join and furthermore, it reveals that the respondent management has asked the employees to report before the Senior Manager and the General Manager and the address of the said Senior Manager and General Manager was also not mentioned in the transfer order. Totally no particulars are available in the transfer orders that where the employees have to join.

17. The domestic enquiry proceedings of the petitioner employees would go to show that no witness was examined on side of the petitioner employees and none of the witnesses were examined as a witness by the Enquiry Officer and further, no opportunity was given to petitioner employees to cross examine the witnesses and further, it would go to show that the Enquiry Officer has not given opportunities to the petitioner employees to putforth their case and without taking any evidence the Enquiry Officer came to the conclusion that the charges alleged against them were proved and the petitioner employees were not given opportunities for cross examination and it is clear from Ex.R50— Enquiry report of the employee Gopalasamy that without examining the witnesses the Enquiry Officer has exhibited the documents 1 to 9 on the side of the respondent and that therefore, it is clear that these documents have, been marked without examining any witnesses and therefore, the workmen did not get any opportunity to elicit anything regarding the documents and that therefore, the enquiry was conducted in a biased manner and sufficient opportunities have not been given to the employees in terms of natural justice. Furthermore, it reveals from the domestic enquiry reports, that the Enquiry Officer has not furnish the list of witnesses which are going

to be examined on the side of the management and the workmen has not served the list of witnesses proposed to be examined in the enquiry. It is the elementary principles of an enquiry that the person who required to answer the charge memo. not only know the accusation but also testimony by which the accusation is supported. But, in this case, the Enquiry Officer has not furnish the list of witnesses to the employee before commencing the enquiry and hence, the employees have not been furnished the list of witnesses proposed to be examined on the side of the management and on the enquiry also the assistance of another staff or colleague of his own was not permitted to participate in the enquiry.

18. Furthermore, it is clear from the records that the Industrial dispute was raised by the employees of the petitioner union and subsequently the respondent management has terminated the employees without previous permission of the Conciliation Officer. The sec.33(1)(b) of the Act would runs as follows :

“For any mis-conduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workmen concerned in such dispute, save with the express permission in writing of the authority before which the proceeding is pending”.

Therefore, it is the clear violation of the Sec.33(1)(b) of the Act that the respondent management has not obtained any previous permission for the dismissal of the petitioner union employees. Therefore, the reason assigned by the respondent management for the dismissal of the employees from the respondent establishment that the two employees of the petitioner union were mis-behaved and other employees of the petitioner union were not obeyed the order of transfer is not justified and erroneous and therefore, they can get the benefit of reinstatement.

In respect of the backwages and other attendant benefits absolutely there is no evidence that the union employees were not working anywhere else after the dismissal and that therefore, they cannot be given full backwages. However, considering the fact and circumstances of this case and the fact that the respondent management has not elicited any evidence that they are working anywhere else, this Court is inclined to hold that the petitioner employees are entitled for 50% of the backwages and other attendant benefits with continuity of service.

19. In the result, the petition is partly allowed and the industrial dispute raised by the petitioners over the non-employment is justified and an Award is passed by directing the respondent to reinstate the petitioner employees in service with continuity of service and further directed to pay 50% of backwages to the petitioner employees from the date of termination till the reinstatement with other attendant benefits. No cost.

Dictated to the stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 30th day of May, 2017.

G. THANENDRAN,
Presiding Officer,
Industrial Tribunal-cum-Labour Court
Puducherry.

List of petitioner's witnesses:

PW.1 — 3-3-2015 — Jayachandiran
PW.2 — 6-11-2015 — Ramachandiran

List of petitioner's exhibits:

Ex.P1 — 7-8-2012 — Copy of the Trade Union Registration Certificate.
Ex.P2 — 9-3-2012 — Copy of the dispute raised by the petitioner union before the Labour Officer, Conciliation, Puducherry.
Ex.P3 — 7-8-2012 — Copy of the letter submitted by the petitioner union before the Labour Officer, Conciliation, Puducherry.
Ex.P4 — 23-2-2012 — Copy of the show cause notice issued respectively to K. Sivakumar, P. Munisamy and the show cause notice issued to S. Sivakumar.
Ex.P5 — 7-3-2012 — Copy of the transfer order issued and respectively to P. Gopalsamy and E. Jayachandiran.
Ex.P6 — 16-3-2012 — Copy of the letter submitted by K. Sivakumar to the Enquiry Officer.

Ex.P7 — Several dates — Copy of the enquiry proceeding's of dates K. Sivakumar.
Ex.P8 — Several dates — Copy of the enquiry proceedings of S. Sivakumar.
Ex.P9 — Several dates — Copy of the enquiry proceedings of dates P. Munisamy.
Ex.P10—17-10-2013 — The termination letter issued by the respondent management to K. Sivakumar.
Ex.P11— 17-10-2013— The termination letter issued by the respondent management to S. Sivakumar.
Ex.P12— 28-3-2014 — The termination letter issued by the respondent management to P. Munisamy.
Ex.P13—4-5-2012 — The show cause notice issued to P. Gopalsamy and E. Jayachandiran.
Ex.P14—30-5-2012 — The Enquiry call letter sent by the Enquiry Officer to P. Gopalsamy and the copy of the enquiry call letter sent by the enquiry letter to E. Jayachandiran.
Ex.P15—Several dates — Copy of the enquiry proceedings of Gopalsamy.
Ex.P16—Several dates — Copy of the enquiry proceedings of Jayachandiran.
Ex.P17—3-9-2012 — Copy of job request letter sent by the Gopalsamy to the respondent management and Enquiry Officer.
Ex.P18—24-4-2013 — Copy of one job request letter sent by Gopalsamy to the Conciliation Officer.
Ex.P19—25-4-2013 — Acknowledgment card acknowledged by the respondent management for the job request letter.

Ex.P20—28-8-2012	— Copy of the allegation letter sent by S. Sivakumar to the respondent management.	Ex.R3 —	— Copy of the complaint letter given by Mr. R. Uthiravel.
Ex.P21—3-12-2013	— Copy of the letter sent by the Munisamy to the respondent management.	Ex.R4 —23-2-2012	— Copy of the show cause notice issued to Mr. K. Sivakumar.
Ex.P22—5-3-2012	— The letter sent by the Munisamy to the respondent management.	Ex.R5 —24-2-2012	— Copy of the reply letter given by Mr. K. Sivakumar.
Ex.P23—21-2-2012	— Copy of the letter sent by the Munisamy to the respondent management.	Ex.R6 —24-2-2012	— Copy of the Complaint Mr. A. Rajamanikkam, Manager.
Ex.P24—11-9-2013	— Copy of the Conciliation call letter.	Ex.R7 —25-2-2012	— Copy of the enquiry notice.
Ex.P25—3-1-2014	— The Conciliation failure report.	Ex.R8 —	— Copy of the enquiry proceedings.
Ex.P26—	— Government of Puducherry, Notification <i>vide</i> G.O. Rt.No.60/AIL/Lab./J/2014.	Ex.R9 —7-4-2012	— Copy of the letter given to Mr. K. Sivakumar regarding Subsistence Allowance.
Ex.P27—26-1-2012	— Copy of the proceedings of the minutes of the meeting.	Ex.R10—2-7-2012	— Copy of the enquiry report of Mr. K. Sivakumar.
Ex.P28—1-2-2012	— Copy of the Trade Union Registration Application submitted before the Registrar of Trade Union, Puducherry.	Ex.R11—8-8-2012	— Copy of the second show cause notice issued to Mr. K. Sivakumar.
Ex.P29—27-2-2012	— Copy of the intimation letter submitted by the petitioner union to the respondent management.	Ex.R12—17-8-2012	— Copy of the reply letter given by Mr. K. Sivakumar.
Ex.P30—Various dates.	— Copy of the transfer order, suspended order, dismissal order by the respondent.	Ex.R13—17-10-2013	— Copy of the Termination Order issued to Mr. K. Sivakumar.
<i>List of respondent's witness:</i>		Ex.R14—8-11-2013	— Copy of the letter received from Mr. K. Sivakumar.
RW.1 — 15-3-2016	— R. Sakthi	Ex.R15 —	— Copy of the complaint letter given by Mr. R. Uthiravel against Mr. K. Sivakumar.
<i>List of respondent's exhibits:</i>		Ex.R16 —	— Copy of the complaint letter given by C. Vijayakumar against K. Sivakumar.
Ex.R1 —30-9-2010	— Copy of the Suspension Order issued to Mr. K. Sivakumar.	Ex.R17—24-2-2012	— Copy of the show cause notice issued to Mr. S. Sivakumar.
Ex.R2 —2-11-2011	— Copy of the Warning memo. issued to Mr. K. Sivakumar.		

Ex.R18—29-2-2012	— Copy of the enquiry notice issued to Mr. S. Sivakumar.	Ex.R31—5-3-2012	— Copy of the enquiry notice with postal slip and acknowledgment card.
Ex.R19 —	— Copy of the enquiry proceedings of Mr. S. Sivakumar.	Ex.R32 —	— Copy of the enquiry proceedings.
Ex.R20—11-6-2012	— Copy of the enquiry report of Mr. S. Sivakumar.	Ex.R33—1-3-2012	— Copy of the enquiry report.
Ex.R21—8-8-2012	— Copy of the second show cause notice issued to Mr. S. Sivakumar.	Ex.R34—25-11-2013	— Copy of the second show cause notice issued to Mr. P. Munisamy.
Ex.R22—28-8-2012	— Copy of the reply letter received from Mr. S. Sivakumar.	Ex.R35—3-12-2013	— Copy of the reply letter received from Mr. P. Munisamy.
Ex.R23—17-10-2013	— Copy of the Termination Order issued to Mr. S. Sivakumar.	Ex.R36—28-3-2014	— Copy of the Termination Order issued to Mr. P. Munisamy.
Ex.R24—13-2-2012	— Copy of the Transfer Order issued to Mr. P. Munisamy,	Ex.R37—1-7-2014	— Copy of the letter received from Mr. P. Munisamy.
Ex.R25—21.02.2012	— Copy of the letter received from Mr. P. Munisamy.	Ex.R38—19-3-2012	— Copy of the Transfer Order issued to Mr. E. Jayachandiran.
Ex.R26—23-2-2012	— Copy of the letter sent to Mr. P. Munisamy by the respondent with registered post and acknowledgment card.	Ex.R39—9-4-2012	— Copy of the show cause notice issued to Mr. E. Jayachandiran.
Ex.R27—23-2-2012	— Copy of the show cause notice issued to Mr. P. Munisamy by the respondent with registered post and acknowledgment card.	Ex.R40—14-4-2012	— Copy of the letter received from Mr. E. Jayachandiran.
Ex.R28—29-2-2012	— Copy of the reply letter received from Mr. P. Munisamy.	Ex.R41—4-5-2012	— Copy of the enquiry notice.
Ex.R29—5-3-2012	— Copy of the letter received from Mr. P. Munisamy.	Ex.R42 —	— Copy of the enquiry proceedings.
Ex.R30—27-2-2012	— Copy of the show cause notice issued to Mr. P. Munisamy.	Ex.R43—20-4-2013	— Copy of the enquiry report of Mr. E. Jayachandiran.
		Ex.R44—7-3-2012	— Copy of the Transfer order issued to Mr. P. Gopalasamy.
		Ex.R45—8-3-2012	— Copy of the letter received from Mr. P. Gopalasamy.
		Ex.R46—15-3-2012	— Copy of the letter received from Mr. P. Gopalasamy.

Ex.R47—9-4-2012 — Copy of the Show cause notice issued to Mr. P. Gopalasamy.

Ex.R48—4-5-2012 — Copy of the enquiry notice.

Ex.R49 — — Copy of the enquiry proceedings.

Ex.R50—20-4-2013 — Copy of the enquiry report of Mr. P. Gopalasamy.

Ex.R51—23-3-2012 — Copy of the FIR filed against the petitioners.

Ex.R52—25-7-2009 — Copy of the Board resolution.

Ex.R53—18-1-2007 — Copy of the Order of Appointment of P. Munisamy.

Ex.R54—6-2-2007 — Copy of the Order of Appointment for trainee of K. Sivakumar.

Ex.R55—22-6-2009 — Copy of the order of revision of wages of S. Sivakumar.

Ex.R56—22-6-2009 — Copy of the order of revision of wages of E. Jayachandiran.

Ex.R57—22-6-2009 — Copy of the order of revision of wages of P. Gopalasamy.

G. THANENDRAN,
Presiding Officer,
Industrial Tribunal-cum-
Labour Commissioner
Puducherry.

GOVERNMENT OF PUDUCHERRY
CO-OPERATIVE DEPARTMENT (AUDIT SECTION)

No. 7/1/1/RCS/Liq./16/2015/308.

Puducherry, the 14th July 2017.

Proceedings of the Registrar of Co-operative Societies, Puducherry.

Present : Dr. A.S. SIVAKUMAR,
Registrar of Co-operative Societies.

Sub : Puducherry region - Registered Co-operative Societies - Liquidation -Appointment of Liquidator under section 127 of the Puducherry Co-operative Societies Act, 1972- Orders-Issued.

Ref : (1) Proceedings No. 7/1/1/RCS/Liq./16/2015/139, dated 15-6-2015 of the Registrar of Co-operative Societies, Puducherry.

(2) Office Order No. 510/RCS/Estt./E6/2017/55, dated 11-7-2015 of the Registrar of Co-operative Societies, Puducherry.

(3) Joining report, dated 13-7-2015 of Thiru Lanka Veerasamy, Co-operative Officer.

ORDER

In exercise of the powers conferred under section 127 of the Puducherry Co-operative Societies Act, 1972, Thiru R. Rangababu, Co-operative Officer was appointed *vide* Proceedings No. 7/1/1/RCS/Liq./16/2015/139, dated 15-6-2015 of the Registrar of Co-operative Societies, Puducherry, as “Liquidator” for Puducherry region in respect of Co-operative Societies liquidated under section 126 of the said Act.

2. Whereas, Thiru Lanka Veerasamy, Co-operative Officer, is transferred and posted as “Liquidator”, *vice* the said Thiru R. Rangababu, Co-operative Officer *vide* Office Order No. 510/RCS/Estt./E6/2017/55, dated 11-7-2015 of the Registrar of Co-operative Societies, Puducherry. The said Thiru Lanka Veerasamy, Co-operative Officer reported for duty *vide* Joining report, dated 13-7-2015 of Thiru Lanka Veerasamy, Co-operative Officer, to assume charges as Liquidator.